

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TONYA RENAI HERRIN,)	
)	
Plaintiff,)	
vs.)	NO. CIV-13-1351-HE
)	
CAROLYN W. COLVIN,)	
Acting Commissioner of the Social,)	
Security Administration)	
)	
Defendant.)	

ORDER


Plaintiff Tonya Renai Herrin filed this action appealing the final decision of the Commissioner of the Social Security Administration denying his application for supplemental security income and disability insurance benefits. Consistent with 28 U.S.C. § 636(b)(1)(B), the case was referred to Magistrate Judge Shon T. Erwin, who has recommended that the Commissioner's decision be reversed and the matter remanded for further proceedings. Judge Erwin concluded that, in evaluating plaintiff's claim of fibromyalgia, the administrative law judge failed to apply SSR 12-2p and made findings inconsistent with the record, which resulted in at least an improper assessment of plaintiff's credibility.

Having failed to object to the Report and Recommendation, the parties have waived their right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996); *see* 28 U.S.C. § 636(b)(1)(C). Accordingly, the court adopts Magistrate Judge Shon T. Erwin's Report and

Recommendation, **REVERSES** the final decision of the Commissioner and **REMANDS** the case for further proceedings consistent with the Report and Recommendation, a copy of which is attached to this order. This decision does not suggest or imply any view as to whether plaintiff is or is not disabled, or what result should be reached on remand.

IT IS SO ORDERED.

Dated this 24th day of March, 2015.



JOE HEATON
UNITED STATES DISTRICT JUDGE